

O'CONNOR CAVANAGH

*The Law Offices of*  
O'Connor, Cavanagh, Anderson, Westover, Killingsworth & Beshears  
A Professional Association

SFUND RECORDS CTR  
2390626

NICHOLAS J. WALLWORK

Phoenix

Telephone 602-263-2440

January 29, 1993

Mr. James Vreeland  
United States Environmental Protection Agency  
Region IX  
Mail Code H-3-1  
75 Hawthorne Street  
San Francisco, CA 94105

**Case:** *Atlantic States Legal Foundation, Inc. v. The Salt River Pima-Maricopa  
Indian Community*  
**Re:** Agreements

Dear Jim:

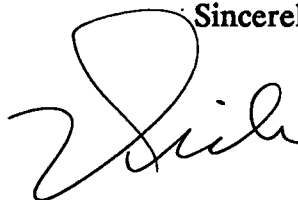
Per our discussions today, I enclose copies of the following documents:

Mesa's Summary of the Agreement  
Stipulation and Order  
Notice of Filing of Statement of Mesa City Manager

If you have any questions, please give me a call.

With best wishes,

Sincerely,

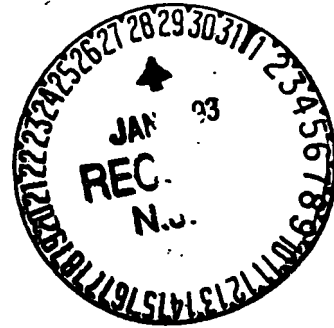


Nicholas J. Wallwork

Enclosures: As stated.

STEPHEN J. BURG (#012073)  
Environmental Attorney  
MESA CITY ATTORNEY'S OFFICE  
P.O. Box 1466  
Mesa, Arizona 85211-1466  
(602) 644-2343

Attorney for Defendant City of Mesa



IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

ATLANTIC STATES LEGAL FOUNDATION,  
INC., dba Southwest Environmental  
Project, and DON'T WASTE ARIZONA,  
INC., an Arizona non-profit  
corporation,

Plaintiffs,

vs.

THE SALT RIVER PIMA-MARICOPA  
INDIAN COMMUNITY; THE CITY OF  
SCOTTSDALE, an Arizona municipal  
corporation; THE CITY OF MESA,  
an Arizona municipal corporation;  
and THE CITY OF TEMPE, an Arizona  
municipal corporation;

Defendants.

NO. CIV 93-0076-PHX-EHC  
NOTICE OF FILING OF  
STATEMENT OF MESA CITY  
MANAGER

Defendant City of Mesa hereby files the statement of its  
City Manager, C.K. Luster, concerning the Stipulation entered into  
on this date between the Salt River Pima-Maricopa Indian Community  
and the Atlantic States Legal Foundation, dba Southwest  
Environmental Project, and Don't Waste Arizona, Inc.

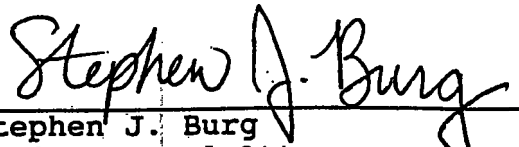
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MESA CITY ATTORNEY  
P.O. Box 1466  
Mesa, Arizona 85211-1466

1 RESPECTFULLY SUBMITTED this 26th day of January, 1993.

2 CITY OF MESA

3   
4 Stephen J. Burg  
5 Environmental Attorney  
6 P.O. Box 1466  
7 Mesa, Arizona 85211-1466  
8 Attorney for Defendant City of  
9 Mesa

10 COPY of the foregoing hand-delivered  
11 this 26th day of January, 1993,  
12 to:

13 Clerk of Court  
14 U.S. District Court  
15 230 North First Avenue  
16 Phoenix, AZ 85025

17 Honorable Earl H. Carroll  
18 Judge of the U.S. District Court  
19 230 North First Avenue  
20 Phoenix, AZ 85025

21 COPY of the foregoing mailed this  
22 26th day of January, 1993, to:

23 M. David Karnas, Esq.  
24 Siegel & Bellovin, P.C.  
25 2430 East 6th Street  
26 Tucson, AZ 85719

27 Richard B. Wilks, Esq.  
28 M. J. Mirkin, Esq.  
William W. Quinn, Jr., Esq.  
Shea & Wilks  
114 West Adams  
Suite 200  
Phoenix, AZ 85003-2094

W. Kent Foree, Esq.  
Tempe City Attorney's Office  
140 East 5th Street  
Suite 301  
Tempe, AZ 85281

...

MESA CITY ATTORNEY  
P.O. Box 1466  
Mesa, Arizona 85211-1466

MESA CITY ATTORNEY  
P.O. Box 1466  
Mesa, Arizona 85211-1466

1 Jenae R. Naumann, Esq.  
City of Scottsdale  
2 3939 Civic Center Plaza  
Scottsdale, AZ 85251

3 Nicholas J. Wallwork, Esq.  
4 Lucas J. Narducci, Esq.  
O'Connor, Cavanagh  
5 One East Camelback  
Suite 1100  
6 Phoenix, AZ 85012-1656

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8 Carla Wagner  
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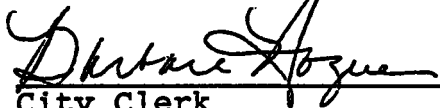
The City of Mesa shall dispose of solid waste at the Tri-City Landfill in accordance with the Stipulation entered into on this date, January 26, 1993, between the Salt River Pima-Maricopa Indian Community and the Atlantic States Legal Foundation, dba Southwest Environmental Project, and Don't Waste Arizona, Inc.



CITY OF MESA

  
\_\_\_\_\_  
City Manager

ATTEST:

  
\_\_\_\_\_  
City Clerk

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6 IN THE UNITED STATES DISTRICT COURT  
7 DISTRICT OF ARIZONA

8 ATLANTIC STATES LEGAL FOUNDATION, )  
9 INC., et al., )

10 Plaintiffs, )

11 v. )

12 THE SALT RIVER PIMA-MARICOPA )  
INDIAN COMMUNITY, et al., )

13 Defendant. )

No. CIV 93-0076 PHX EEC

STIPULATION AND ORDER

14 Come now the plaintiffs and the defendant, the Salt River  
15 Pima-Maricopa Indian Community and stipulate as follows:

16 1. The Community will confine its municipal waste disposal  
17 to an area which will be outside of the 100 year flood plain as  
18 defined by the Burgess-Niple flood plain study of 1988 of the  
19 Salt River (a copy of which is annexed hereto as Exhibit 1) until  
20 superceded by the Maricopa County Flood Control District Flood  
21 Plain Map scheduled to be completed in April 1993, and no closer  
22 than one thousand feet from the 950 foot area of erosion  
23 designated on the attached map (annexed hereto as Exhibit 2).

24 2. The site which will be used to dispose of municipal  
25 waste will be completely surrounded by a woven filter fabric  
26 fence no less than 5 feet in height whose purpose is to remove  
27 debris from any rain or any other water runoff so to prevent such  
28 debris from going beyond the boundaries of the disposal area.

1 The fabric fence will be utilized as soon as it is acquired. The  
2 Community will acquire the fabric fence forthwith.

3 3. The Community will comply with Federal regulations in  
4 regard to operations and landfill cover and shall make good faith  
5 efforts to comply with 40 CFR 258 as to cover.

6 4. The plaintiffs may designate a representative who may  
7 semi-monthly and with 12 hours notice with landfill management  
8 enter and observe the landfill operating site during working  
9 hours.

10 5. The Community will allow plaintiffs to take surface  
11 water tests along the shoreline of the landfill to test for fecal  
12 coliform. The Community landfill management will allow  
13 plaintiffs representatives entry to the landfill with 12 hours  
14 notice to take such tests. The parties shall share the results  
15 of these tests.

16 6. The Community and the plaintiffs will share all  
17 groundwater quality reports secured by either of them.

18 7. This Stipulation shall remain in effect pending final  
19 judgment as to the Community in this case or a cessation of  
20 landfill operations whichever first occurs.

21 Dated this 26th day of January, 1993.

22 ATLANTIC STATES LEGAL  
23 FOUNDATION

SALT RIVER PIMA-MARICOPA  
COMMUNITY

24 By \_\_\_\_\_  
25 Richard Cox  
26 Executive Director

By \_\_\_\_\_  
Ivan Makil  
President

27 . . .

28

1 DON'T WASTE ARIZONA, INC.

SHEA & WILKS, P.C.

2  
3 By Stephen Brittle

By Richard B. Wilks, Attorneys  
Salt River Pima-Maricopa  
Indian Community

4  
5 SIEGEL & BELLOVIN, P.C.

6  
7  
8 By David Karnas, Attorneys  
for Plaintiffs

9  
10  
11 O R D E R

12 The Court having received plaintiffs' Motion for a Temporary  
13 Restraining Order and, in the alternative, Preliminary Injunction  
14 and, the parties having discussed the issues pertaining thereto,  
15 and having entered into a stipulation, it is hereby ordered that  
16 the Court approves the Stipulation agreed upon by the parties and  
17 retains jurisdiction to enforce the terms thereof.

18 DONE IN OPEN COURT this \_\_\_\_\_ day of January, 1993.

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21 Earl H. Carroll  
22 Judge, United States District  
Court, District of Arizona  
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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

ATLANTIC STATES LEGAL FOUNDATION,	)	
INC.; et al.,	)	No. CIV 93-0076 PHX EEC
	)	
Plaintiffs,	)	STIPULATION AND ORDER
	)	
v.	)	
	)	
THE SALT RIVER PIMA-MARICOPA	)	
INDIAN COMMUNITY, et al.,	)	
	)	
Defendant.	)	

Come now the plaintiffs and the defendant, the Salt River Pima-Maricopa Indian Community and stipulate as follows:

1. The Community will confine its municipal waste disposal to an area which will be outside of the 100 year flood plain as defined by the Burgess-Niple flood plain study of 1988 of the Salt River (a copy of which is annexed hereto as Exhibit 1) until <sup>↳ A LARGE MAP WHICH HAS NOT BEEN REDUCED YET.</sup> superceded by the Maricopa County Flood Control District Flood Plain Map scheduled to be completed in April 1993, and no closer than one thousand feet from the 950 foot area of erosion designated on the attached map (annexed hereto as Exhibit 2).
2. The site which will be used to dispose of municipal waste will be completely surrounded by a woven filter fabric fence no less than 5 feet in height whose purpose is to remove debris from any rain or any other water runoff so to prevent such debris from going beyond the boundaries of the disposal area.

1 The fabric fence will be utilized as soon as it is acquired. The  
2 Community will acquire the fabric fence forthwith.

3 3. The Community will comply with Federal regulations in  
4 regard to operations and landfill cover and shall make good faith  
5 efforts to comply with 40 CFR 258 as to cover.

6 4. The plaintiffs may designate a representative who may  
7 semi-monthly and with 12 hours notice with landfill management  
8 enter and observe the landfill operating site during working  
9 hours.

10 5. The Community will allow plaintiffs to take surface  
11 water tests along the shoreline of the landfill to test for fecal  
12 coliform. The Community landfill management will allow  
13 plaintiffs representatives entry to the landfill with 12 hours  
14 notice to take such tests. The parties shall share the results  
15 of these tests.

16 6. The Community and the plaintiffs will share all  
17 groundwater quality reports secured by either of them.

18 7. This Stipulation shall remain in effect pending final  
19 judgment as to the Community in this case or a cessation of  
20 landfill operations whichever first occurs.

21 Dated this 26th day of January, 1993.

22 ATLANTIC STATES LEGAL  
23 FOUNDATION

SALT RIVER PIMA-MARICOPA  
COMMUNITY

24 By  
25 Richard Cox  
26 Executive Director

By  
Ivan Makil  
President

27 . . .

28

1 DON'T WASTE ARIZONA, INC.

SHEA & WILKS, P.C.

2  
3 By Stephen Brittle

By Richard B. Wilks, Attorneys  
Salt River Pima-Maricopa  
Indian Community

4  
5 SIEGEL & BELLOVIN, P.C.

6  
7  
8 By David Karnas, Attorneys  
for Plaintiffs

9  
10  
11 O R D E R

12 The Court having received plaintiffs' Motion for a Temporary  
13 Restraining Order and, in the alternative, Preliminary Injunction  
14 and, the parties having discussed the issues pertaining thereto,  
15 and having entered into a stipulation, it is hereby ordered that  
16 the Court approves the Stipulation agreed upon by the parties and  
17 retains jurisdiction to enforce the terms thereof.

18 DONE IN OPEN COURT this \_\_\_\_\_ day of January, 1993.

19  
20  
21 Earl H. Carroll  
22 Judge, United States District  
Court, District of Arizona  
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**CITY OF  
MESA**

**SUMMARY OF STIPULATION ENTERED INTO BETWEEN THE SALT RIVER  
PIMA-MARICOPA INDIAN COMMUNITY AND ATLANTIC STATES LEGAL  
FOUNDATION, DBA SOUTHWEST ENVIRONMENTAL PROJECT,  
AND DON'T WASTE ARIZONA, INC. (1/26/93)**

**United States District Court No. CIV 93-0076 PHX EHC**

1. The Community will continue to confine its municipal solid waste disposal to an area outside of the 100-year floodplain and no closer than 1,000 feet from the area of erosion at the Salt River.
2. The disposal site will be surrounded completely by a woven filter fabric fence no less than five feet in height to remove debris from any rain or other water runoff. The Community will acquire the fabric fence and use it forthwith.
3. The Community will continue to comply with current Federal regulations in regard to operations and cover (putting dirt over the disposal area daily) and will make good faith efforts to comply with Federal regulations which do not become effective until October as to covering the landfill.
4. The plaintiffs may designate a representative to enter and observe the landfill during working hours by semi-monthly appointment and with 12 hours notice.
5. The Community will allow plaintiffs access to the landfill, with 12 hours notice, to take surface water tests, and the results of such tests will be shared.
6. The Community and the plaintiffs will share all groundwater quality reports secured by either of them.
7. The Stipulation will remain in effect pending final judgment as to the Community in the litigation or a cessation of landfill operations, whichever occurs first.

Any questions may be directed to Steve Burg at 644-2343.



The City of Mesa shall dispose of solid waste at the Tri-City Landfill in accordance with the Stipulation entered into on this date, January 26, 1993, between the Salt River Pima-Maricopa Indian Community and the Atlantic States Legal Foundation, dba Southwest Environmental Project, and Don't Waste Arizona, Inc.



CITY OF MESA

C. N. Ruth  
City Manager

ATTEST:

Dorinda Hogue  
City Clerk

# ROUTING AND TRANSMITTAL SLIP

Date

2-5-93

TO: (Name, office symbol, room number,  
building, Agency/Post)

Initials

Date

1. Susan Wen (E&C)

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

## REMARKS

Please put in Tri-City CERCLA  
file.  
Thanks, Lisa

DO NOT use this form as a RECORD of approvals, concurrences, disposals,  
clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)  
Prescribed by GSA  
FPMR (41 CFR) 101-11.206

★ U.S. GPO: 1990 — 262-080